

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 306

SPONSOR: Appropriations Subcommittee on Public Safety and Judiciary, Criminal Justice Committee and Senators Clary and Smith

SUBJECT: Public Protection

DATE: April 11, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Pingree</u>	<u>Beck</u>	<u>APJ</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn: Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

CS/CS/SB 306 requires the Department of Corrections (DOC), within 30 days of approving an inmate for community work release, to notify: the state attorney; the victim; the victim’s parent or guardian if the victim is a minor; the lawful representative of the victim or the victim’s parent or guardian if the victim is a minor; or the victim’s next of kin in a homicide case. Additionally, the bill amends other victim notification statutes to expand the notification requirements to include notification of the victim’s parent or guardian or lawful representative, when applicable.

The bill requires that domestic violence victims be informed about the address confidentiality program established in s. 741.403, F.S. CS/CS/SB 306 also requires the court to inform the victim of a sex offense of his or her right to have the courtroom cleared of certain persons before testifying. The bill provides that a victim, the victim’s parent or guardian if the victim is a minor, the lawful representative of the victim, or of the victim’s parent or guardian if the victim is a minor, or the victim’s next of kin in the case of a homicide may review the presentence investigation report of a defendant being considered for adjudication as a youthful offender.

CS/CS/SB 306 also enables Florida to join with other states to establish the “Interstate Compact for Adult Offender Supervision” in place of the current Interstate Compact for the Supervision of Parolees and Probationers.

This bill substantially amends the following sections of the Florida Statutes: 921.143, 944.605, 948.10, 949.07, 949.071, 949.08, 949.09, 958.07, 960.001, and 960.28. It also creates section 949.072.

II. Present Situation:

Victim's Rights

Section 947.175(3), F.S., requires the Department of Corrections (DOC) to notify within 30 days, and upon request, the state attorney, the victim, and the personal representative of the victim when an inmate has been approved for community work release. Section 944.605, F.S., also contains similar victim notification requirements for DOC six months before the release of an inmate from the department. Section 944.606, F.S., requires DOC to provide specified information within 6 months prior to a sexual offender's anticipated release, or as soon as possible if the sexual offender is released earlier than anticipated, to: the sheriff of the county where the sexual offender was sentenced; the sheriff or the chief of police of the county or city where the sexual offender plans to live; the Florida Department of Law Enforcement; and to any person who requests the information. Section 948.10, F.S., requires DOC to notify, upon request, specified law enforcement personnel when an offender is placed on community control.

Section 960.001, F.S., provides guidelines for the fair treatment of victims and witnesses involved in the criminal and juvenile justice systems, including the right to information about available protections, victim notification, and the right to have an advocate present during depositions. Section 921.143, F.S., provides that when a defendant is being sentenced for a crime, the sentencing court must allow the victim of the defendant's crime, or the victim's next of kin if the victim died from causes related to the crime, to make a statement, either in person or in writing. Section 741.403, F.S., allows victims of domestic violence to apply to the Attorney General for a confidential address.

Section 958.07, F.S., allows a defendant being considered for youthful offender status the opportunity to review the material facts in his or her presentence investigation report as well as the opportunity to present facts that could affect the trial court's decision to adjudicate the defendant as a youthful offender.

Section 960.28, F.S., prohibits a medical provider from billing a sexual offense victim, directly or indirectly, for the victim's initial forensic physical examination.

Interstate Compact for the Supervision of Parolees and Probationers

Florida is now a member of the Interstate Compact for the Supervision of Parolees and Probationers, which allows the states to cooperate on the movement of supervised offenders from one state to another. Section 949.07, F.S., contains the language for the current compact. The signatory states agree:

- The state where the person is on supervision may send supervised offenders to another state if the offender is a resident of the receiving state or has family and opportunity there, or while not qualifying as expressed above, the receiving state consents to the relocation.
- The receiving state will assume the duties of the sending state and will supervise the offender under its own standards.

- The sending state will have the authority to reclaim the offender at any time while the offender is on supervision, and the receiving state will have to allow that, unless the offender has pending charges in the receiving state, which would take precedence.
- The officers of the sending state have the authority to transport the reclaimed offender through all other states without interference.
- The Governor has the authority to name the state officers to work with other states to promulgate the rules to implement to the compact.
- The compact becomes operative between states when those states agree to the compact and remains in force until a ratifying state renounces the compact.

This agreement has remained largely unchanged since 1934, according to the DOC. Since then, there has been a large increase in the number of offenders being supervised (4,000,000) and the number who relocate to another state while under supervision (250,000). Advancements in data systems, communications, and DNA technology now allow for a more centralized system of information exchange.

Section 949.071, F.S., currently defines a “state” to include all fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands. The current compact does not apply to juveniles. There is a separate interstate compact for juveniles described in ss. 985.501 through 985.507, F.S.

III. Effect of Proposed Changes:

Victim’s Rights

CS/CS/SB 306 amends s. 944.605, F.S., to require the DOC, within 30 days of an inmate being approved for community work release, to notify the state attorney, the victim, the victim’s parent or guardian if the victim is a minor, the victim’s next of kin in a homicide case, and the lawful representative of the victim or the victim’s parent or guardian if the victim is a minor. (The current notification requirement only applies to state attorneys, victims, and their personal representatives.) Section 944.605, F.S., is also amended to conform to the provisions of CS/SB 388, relating to the Parole Commission, by removing the requirement that the Parole Commission, or the Parole Commission functioning as the Control Release Authority, notify victims.

CS/CS/SB 306 amends various subsections of section 960.001, F.S., (relating to the guidelines for the fair treatment of victims and witnesses in the criminal and juvenile justice systems), subsections (1) and (2) of section 921.143, F.S., (relating to the appearance of victims or their next of kin to make statements at sentencing hearings), s. 944.606(3)(b), F.S., (relating to notification of the release of sexual offenders), and s. 948.10(6), F.S., (relating to community control programs), to expand victim notification provisions to provide that if a victim must be notified, that notification extends to: the victim’s parent or guardian if the victim is a minor; the victim’s next of kin in a homicide case; and the lawful representative of the victim or the victim’s parent or guardian if the victim is a minor.

The bill also amends s. 960.001(1)(c), F.S., to require that victims of domestic violence be informed about the address confidentiality program established pursuant to s. 741.403, F.S., (which allows victims of domestic violence to apply to the Attorney General for a confidential

address). Section 960.001(1)(q), F.S., is amended to require the court to inform the victim of a sexual offense of his or her right to clear the court room of certain persons before testifying, as provided in s. 918.16, F.S. Additionally, s. 960.001(7), F.S., is amended to provide that in addition to the victim and the state attorney, the victim's parent or guardian, if the victim is a minor, has standing to assert the rights of a crime victim provide by law or Florida's constitution.

In addition, CS/CS/SB 306 amends s. 958.07, F.S., to allow the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or the victim's parent or guardian if the victim is a minor, and the victim's next of kin in the case of a homicide, an opportunity to review the presentence investigation report of a defendant who is being considered for youthful offender status. Pursuant to s. 960.001(1)(g) 2., F.S., the prosecutor must redact confidential information from a presentence investigation report before showing it to the victim or another designated person.

The bill also provides that a medical provider cannot directly or indirectly bill a sexual offense victim's parent or guardian, if the victim is a minor, for the victim's initial forensic physical examination.

Interstate Compact for Adult Offender Supervision

CS/CS/SB 306 substantially amends s. 949.07, F.S., by replacing the current language describing the compact the state utilizes to coordinate the movement of parolees and probationers among Florida and other states. The new language is drawn from a model version of the compact and authorizes the Governor to enter into the compact. The new provisions include:

- A statement of purpose that describes the need to form an interstate compact to coordinate the movement of offenders and their supervision in order to prevent crime.
- A description of the "Interstate Commission for Adult Offender Supervision" which would be the corporate body and a joint agency of the compacting states. The commission consists of the representatives of the compacting states and support staff. The commission must meet at least once a year to conduct business.
- A requirement to form a "State Council" to oversee that state's participation in the compact. (Section 10 of the bill creates s. 949.072, F.S., to describe how Florida will create its council.)
- A provision that empowers the commission to supervise the interstate movement of offenders, enforce compliance with the rules of the commission, maintain offices, contract, conduct the normal business of an agency or similar commission and resolve disputes between compacting states.
- A provision that each member (state) of the commission will have a vote in establishing the rules and policies of the commission and compact. All meetings will be public. The commissioner will have the authority to make rules; however, if a majority of the compacting states' Legislature rejects a commission rule, that rule would be in effect repealed.
- A statement specifying that jurisdiction for contesting actions or rules of the commission would be the United States District Court for the District of Columbia or the federal district court where the commission's principal office is located.

When 35 states or territories have agreed to join the new compact, pursuant to the agreement which is embodied in section 8 of this bill, there will be an organizational meeting. The original signatories will establish the organization that will oversee the compact operations and facilitate cooperation between the states. The Department of Corrections will act as the state's participant in this process.

Section 10 of CS/CS/SB 306 creates s. 949.072, F.S., establishing a "State Council for Interstate Adult Offender Supervision" in Florida. The council is comprised of seven members appointed by the Governor, including at least one representative of a victim's assistance group. The Secretary of the DOC, or his designee, serves as the council's chair. The state council serves as an advisory body to the compact administrator.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Corrections does not anticipate that the victim notification provisions of the bill will have a fiscal impact to the department.

With respect to the interstate compact provisions of CS/CS/SB 306, the state would incur two separate expenses related to this legislation. First, the state would be obligated to pay dues to the compact organization. It is estimated that Florida's yearly assessment would start out at approximately \$46,000. Section 949.08, F.S., is amended to allow the state to reduce its dues if the Legislature does not appropriate the required amount. The other expense would be the operation of the state council to oversee the state's participation in the compact. Section 949.072, F.S., is created to provide a structure for the state council. While the DOC can provide most of the administrative support without additional staff, this section would

authorize reimbursement for the council's travel and per diem expenses. It is anticipated that the expenses associated with the interstate compact will be covered within existing funds appropriated to the Department of Corrections.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
